

JUN 15 2015

JULIA C. BUDLEY, CLERK
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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
DANVILLE DIVISION

UNITED STATES OF AMERICA

Case No. 4:06-cr-00049-3

v.

MEMORANDUM OPINION

ELIGIA JUNIOR MARTIN,
Petitioner.

By: Hon. Jackson L. Kiser
Senior United States District Judge

Eligia Junior Martin, a federal inmate proceeding pro se, filed a motion to withdraw plea agreement, which I construe as a motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255. Court records indicate that Petitioner filed a prior § 2255 motion about the same conviction and/or sentence (ECF no. 142) that I dismissed (ECF no. 147), and the current motion does not relate to previously unavailable facts. Thus, Petitioner's current § 2255 motion is a second or subsequent one under 28 U.S.C. § 2255(h).

A district court may consider a second or successive § 2255 motion only upon specific certification from the Fourth Circuit Court of Appeals that the claims in the motion meet certain criteria. See 28 U.S.C. § 2255(h). As Petitioner has not submitted any evidence of having obtained certification from the United States Court of Appeals for the Fourth Circuit to file a second or successive § 2255 motion, I dismiss the § 2255 motion without prejudice as successive. Based upon my finding that Petitioner has not made the requisite substantial showing of denial of a constitutional right as required by 28 U.S.C. § 2253(c), a certificate of appealability is denied.

ENTER: This 15th day of June, 2015.


Senior United States District Judge